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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,320	01/23/2002	Neil J. Bassom	F071	8008

25784            7590            09/23/2003  
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EXAMINER
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ROCCHEGIANI, RENZO

ART UNIT	PAPER NUMBER
2825	

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/055,320	BASSOM ET AL.
	<b>Examin r</b>	<b>Art Unit</b>
	Renzo N. Rocchegiani	2825

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 July 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 and 31-36 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5, 9-14, 16-31 and 33-36 is/are rejected.
- 7) Claim(s) 6-8, 15 and 32 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____                                     |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 9-14, 16-18, 31, 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,261,850 B1 (Marsh) in view of applicant's admission.

Marsh discloses a process to form a conductive material with a focused ion beam deposition using two precursor gasses one comprising an organometallic platinum compound and the other comprising a non-conductive precursor that if used by itself would form a dielectric layer. (col. 2, lines 44-65). Marsh further discloses that the deposition of the conductive material is controlled by controlling the flow, and thus concentration, of the precursor gases. (col. 9, lines 20-30) Marsh discloses injecting the precursor gases simultaneously through separate inlet ports. (col. 9, lines 1-8).

Marsh does not disclose that the conductive material has a high resistivity that falls between  $5 \times 10^4$  and  $7 \times 10^4$  ohms per square.

In their response applicant admitted that the resistivity of the conductive material layer is dependent on its size, thus recognizing that the size of the layer is a result effective variable. Based on this admission, it would have been obvious to one with ordinary skill in the specific art to form the layer to have a high resistivity since it has

been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

It would further be obvious to one with ordinary skill in the specific art to inlet the gasses through the same port, since it has been held that the provision of adjustability involves only routine skill in the art. *In re Stevens*, 101 USPQ 284 (CCPA 1954).

It would be inherent that the voltage to current relationship for the conductive film will be linear since that is the relationship between voltage and current.

#### ***Allowable Subject Matter***

3. Claims 6-8, 15 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. The indicated allowability of claims 2 and 4-5 is withdrawn in view of applicant's admission and application of US Patent No. 6,261,850 B1 (Marsh). Rejections based on the newly cited reference(s) follow.

#### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-18 and 31-36 have been considered but are moot in view of the new ground(s) of rejection. In light of the amendment made and of the arguments and evidence submitted in the last response the examiner has withdrawn the previous rejection and replaced it with the above. The rejection is based on a reference that was cited in the PTO-892 attached to the previous office action.

***Conclusion***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renzo Rocchegiani whose telephone number is (703) 308-5839. The examiner can normally be reached on Monday through Friday from 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith, can be reached at (703) 308-1323. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

RNR

September 17, 2003



MATTHEW SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800